



**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET
STATE PLANNING COORDINATION**

September 17, 2007

Mr. Gary Moore
River Basin Engineering
724 Yorklyn Road, Ste. 300
Hockessin, DE 19707

RE: PLUS review – PLUS 2007-08-06; Overbrook Park Center

Dear Mr. Moore:

Thank you for meeting with State agency planners on August 22, 2007 to discuss the proposed plans for the Overbrook Park Center project to be located at the intersection of Coastal Highway and Cave Neck Road.

According to the information received, you are seeking a rezoning through Sussex County for a 30,857 sq. ft. business park consisting of a 13,800 sq. ft. retail building, a 3,562 sq. ft. bank and a 13,225 sq. ft. drug store.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Sussex County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

Executive Summary

The following section includes some site specific highlights from the agency comments found in this letter. This summary is provided for your convenience and reference. The full text of this letter represents the official state response to this project. ***Our office notes that the applicants are responsible for reading and responding to this letter and all comments contained within it in their entirety.***

State Strategies/Project Location

- The Project is located west of the intersection of Delaware Route 88 and Delaware Route 1 within the Sussex County Environmentally Sensitive Developing Area. In addition the proposed project is also located within State Investment Level 3 as defined by the State's Strategies for Policy and Spending. This is an area recognized by the state in which anticipated future growth is to occur and further more as it is within the ESDA where it is expected that special considerations be made to lessen environmental impacts to the Inland Bays Watershed.

Street Design and Transportation

- Delaware Route 1 is classified as a principal arterial road and Cave Neck Road is classified as a collector road. DelDOT's policy is to require dedication of sufficient land to provide a minimum right-of-way width of 50 feet from the centerline on principal arterial roads and 40 feet from the centerline on collector roads.
- On Cave Neck Road, DelDOT will require the developer to provide a 15-foot wide permanent easement along the property frontage and provide a 10-foot wide shared use path within that easement.
- The proposed development does not meet DelDOT's current warrants for a traffic impact study (TIS) and they will not require one for the proposed rezoning. However, under new standards that DelDOT expects to adopt this calendar year, a TIS would be warranted for this site, so they will revisit the need for a study as part of the site plan approval process.
- DelDOT recommends that the aisleway shown along the west edge of the property be extended to the south property line and that a cross access easement be provided to Tax Parcel 2-35-23.00-54.01, a presently undeveloped lot fronting on Route 1. Similarly, if possible, bicycle and pedestrian access to the adjoining

Paynter's Mill development should be pursued and coordinated with that development.

The following are a complete list of comments received by State agencies:

Office of State Planning Coordination – Contact: Bryan Hall 739-3090

The Office of State Planning and Coordination recognizes that this project lies within the State Investment Level 3 as defined by the State's Strategies for Policy and Spending and within Sussex County Environmentally Sensitive Developing Area (ESDA) as defined within the 2003 Sussex County Comprehensive Land Use Plan as an area of exceptional natural resources that allows for necessary infrastructure to minimize development impacts to this area of the County. This office has no objection to the proposal and encourages the developer to coordinate with Sussex County Planning and Zoning as this project moves through the County approval process with extra concern given to the proper zoning as required by the county. This office does however make the following recommendations to further improve the quality and marketability of this project to its future residents.

As identified by comments provided by DelDOT possible improvements will be need to Route 88 to allow for sufficient right of way as well as a walking path for future residents. These concessions, if granted, will allow for improved access to the project and lessen traffic on Route 88 while preserving the road corridor for future road improvements.

I hope that the developer will further consider these recommendations and I look forward to working with the developer as the proposed site plan is refined, please call with questions.

Division of Historical and Cultural Affairs – Contact: Terrance Burns 739-5685

According to the historical resources and documents at the State Historic Preservation Office, there are no recognized or known archaeological or historical sites on this parcel, but there one Cultural Resource Suvey (CRS) Sites close it, and it is S-3026. S-3026 is in reference to a 19th century agricultural complex, approximately or probably built between years of 1820 – 1840, it documented on the Beers Atlas of 1868 of Broadkill Hundred, and is located on Route 88, south side just of Route 1. A historic farm complexes or farmstead during this period are likely to have family cemeteries associated with them, and the developer should be aware of Delaware's Unmarked Human Remains Act of 1987, which governs the discovery and disposition of such remains. The unexpected discovery of unmarked human remains during construction can result in significant delays while the process is carried out, and the developer may want to

hire an archaeological consultant to check for the possibility of a cemetery here if this development is approved. It is possible that prior construction have disturbed this particular site, but it is possible that there could probably still be undiscovered archaeological sites (prehistoric or historic) remaining somewhere on the premises of this particular parcel (property or project area). If any construction proceeds on this parcel (property or project area), the State Historic Preservation Office of the Division of Historical & Cultural Affairs would like the opportunity to examine the area prior to any demolition or ground-disturbing activities, to see if there are any archaeological sites on it, in order to learn more information about this area in detail. If you would like to discuss this information or other issues further, contact the State Historic Preservation Office Division of Historical & Cultural Affairs at (302) 744-7400 ext.25, and they will be more than happy to assist you.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

Overbrook Park Center, LLC seeks to develop a 30,587 square foot shopping center on an approximately 4.71-acre parcel (part of Tax Parcel 2-35-23.00-01.00) located on the southwest corner of Delaware Route 1 and Cave Neck Road (Sussex Road 88). The land is zoned AR-1 in Sussex County and rezoning to C-1, or a similar zoning, would be necessary to permit the proposed development.

DelDOT comments, which concern the site plan presented more than the rezoning, are as follows:

- 1) Delaware Route 1 is classified as a principal arterial road and Cave Neck Road is classified as a collector road. DelDOT's policy is to require dedication of sufficient land to provide a minimum right-of-way width of 50 feet from the centerline on principal arterial roads and 40 feet from the centerline on collector roads. On divided highways, such as Route 1, this distance is measured from the inside edge of the travelway, rather than from the actual centerline. Therefore DelDOT will require right-of-way dedication along the frontage to provide any additional width needed from this project.
- 2) On Cave Neck Road, DelDOT will require the developer to provide a 15-foot wide permanent easement along the property frontage and provide a 10-foot wide shared use path within that easement.
- 3) The proposed development does not meet DelDOT's current warrants for a traffic impact study (TIS) and they will not require one for the proposed rezoning. However, under new standards that DelDOT expects to adopt this calendar year, a

TIS would be warranted for this site, so they will revisit the need for a study as part of the site plan approval process.

- 4) DelDOT recommends that the aisleway shown along the west edge of the property be extended to the south property line and that a cross access easement be provided to Tax Parcel 2-35-23.00-54.01, a presently undeveloped lot fronting on Route 1. Similarly, if possible, bicycle and pedestrian access to the adjoining Paynter's Mill development should be pursued and coordinated with that development.
- 5) The developer's site engineer met with me and with Mr. Charles Altevogt, who manages our Corridor Capacity Preservation Program, regarding access on July 5, 2007. As we explained to him at that time, DelDOT's plans for the intersection of Route 1 and Cave Neck Road include prohibiting left turns from eastbound Cave Neck Road onto northbound Route 1 and improving the acceleration lane for the right turn from eastbound Cave Neck Road onto southbound Route 1. The proposed right-turn in and out access on Route 1 would conflict with the acceleration lane just mentioned and therefore would not be permitted. Questions regarding the CCPP should be addressed to Mr. Altevogt at (302) 760-2124.
- 6) If the rezoning is approved, the developer's site engineer should contact our Subdivision Manager for Sussex County, Mr. John Fiori, regarding our specific requirements for access and off-site improvements. Mr. Fiori may be reached at (302) 760-2260.

The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071

Water Resource Protection Areas

The Water Supply Section, Ground Water Protection Branch, has determined that it does not fall within any delineated wellhead protection area or an area of excellent groundwater recharge potential. The proposed project is surrounded by excellent recharge potential area (see following map).

Map of Overbrook Park Center The parcel identified in this project is outlined in blue. The excellent recharge potential area is shown in green.



Water Supply

The project information sheets state water will be provided to the project by Tidewater Utilities via a public water system. DNREC records indicate that the project is located within the public water service area granted to Tidewater Utilities under Certificate of Public Convenience and Necessity 83-W-15.

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction

of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-9944.

Sediment and Erosion Control/Stormwater Management

Standard Comment and Action Item: A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. Contact the reviewing agency to schedule a pre-application meeting to discuss the sediment and erosion control and stormwater management components of the plan as soon as practicable. The site topography, soils mapping, pre- and post-development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion. The plan review and approval as well as construction inspection will be coordinated through the Sussex Conservation District. Contact Jessica Watson at the Sussex Conservation District at (302) 856-7219 for details regarding submittal requirements and fees.

Specific Comments and Recommendations: The PLUS application states that proposed stormwater management on this site is a storm drain collection system, underground storage and infiltration. There are several requirements for infiltration. Prior to approval of an infiltration system, the applicant will be required to determine the feasibility of infiltration by determining whether there is adequate separation distance from ground water, soil borings and infiltration tests. Also pretreatment practices are required for water quality when infiltration is used. Because of the parcel's location in an impaired watershed and the amount of impervious surface, consider incorporating other green technology BMPs and the use of low impact development practices to reduce stormwater flow and meet to water quality goals.

Drainage

The Drainage Program requests that the engineer take precautions to ensure the project does not create any off site drainage problems downstream by the release of on site storm water. The Drainage Program requests that the engineer check existing downstream

conveyances for function and blockages prior to the construction. Notify downstream landowners of the change in volume of water released on them.

State Fire Marshal's Office – Contact: Duane Fox 856-5298

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

The State Fire Marshal's Office has no objection to the re-zoning request. The information provided below shall be considered when plans are being designed.

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans in accordance with the Delaware State Fire Prevention Regulation.

Department of Agriculture - Contact: Scott Blaier 698-4500

The Delaware Department of Agriculture has no objections to the proposed rezoning request. The *Strategies for State Policies and Spending* encourages environmentally responsible development in Investment Level 3 areas.

Public Service Commission - Contact: Andrea Maucher 739-4247

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

Department of Education – Contact: John Marinucci 735-4055

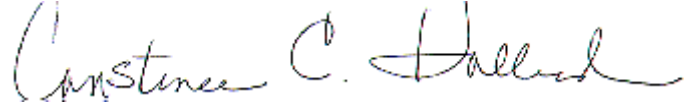
This proposed development is within the Cape Henlopen School District.

This is a commercial/industrial rezoning request with no apparent impact on educational infrastructure, capacity or demand. DOE has no comments or objections to this rezoning request.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in blue ink that reads "Constance C. Holland". The signature is written in a cursive style with a large initial "C" and a long horizontal flourish at the end.

Constance C. Holland, AICP
Director

CC: Sussex County